



(BILLING CODE: 4810-02)

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Programs; Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of a currently approved information collection found in existing Bank Secrecy Act regulations. Specifically, the regulations require banks, brokers or dealers in securities, futures commission merchants, introducing brokers in commodities, and mutual funds to establish due diligence programs that include risk-based, and, where necessary, enhanced, policies, procedures, and controls reasonably designed to detect and report money laundering conducted through or involving, any correspondent accounts established or maintained for foreign financial institutions. The regulations also require that these same financial institutions establish due diligence programs that include policies, procedures, and controls reasonably designed to detect and report money laundering conducted through or involving any private banking accounts established by the financial institutions. The due diligence programs are required to be part of the financial institutions' anti-money laundering programs. Although no changes are proposed to the information collection itself, this request for comments covers a future expansion of the

scope of the annual hourly burden and cost estimate associated with these regulations.

This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome, and must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2020-0012 and the specific Office of Management and Budget (OMB) control number 1506-0046.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2020-0012 and OMB control number 1506-0046.

Please submit comments by one method only. Comments will also be incorporated into FinCEN's review of existing regulations, as provided by Treasury's 2011 Plan for Retrospective Analysis of Existing Rules. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to

Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Public Law 107–56) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement anti-money laundering (AML) programs and compliance procedures.¹ Regulations implementing the BSA appear at 31 CFR chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.²

Section 312 of the USA PATRIOT Act added subsection (i) to 31 U.S.C. 5318 of the BSA. Section 312 mandates that each financial institution that establishes, maintains, administers, or manages a correspondent account or a private banking account in the United States for non-U.S. persons subject such accounts to certain anti-money laundering compliance measures. In particular, a financial institution must establish appropriate, specific, and, where necessary, enhanced, due diligence (EDD) or enhanced scrutiny policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts. The regulations implementing the due diligence requirements for maintaining foreign correspondent accounts and private banking accounts are found at 31 CFR 1010.610 and 31 CFR

¹ Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism.

² Treasury Order 180-01 (re-affirmed Jan. 14, 2020).

1010.620, respectively, and apply to covered financial institutions defined as banks, brokers or dealers in securities, futures commission merchants, introducing brokers in commodities, and mutual funds.³

a) 31 CFR 1010.610 – Due diligence programs for correspondent accounts for foreign financial institutions

Under 31 CFR 1010.610(a), covered financial institutions are required to establish due diligence policies, procedures, and controls that include each of the following for any correspondent account established, maintained, administered, or managed: (i) determining whether any such foreign correspondent account is subject to EDD; (ii) assessing the money laundering risks presented by each such foreign correspondent account; and (iii) applying risk-based procedures and controls to each such foreign correspondent account reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the correspondent account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.

Under 31 CFR 1010.610(b), covered financial institutions are required to establish EDD policies, procedures, and controls when establishing, maintaining, administering, or managing a correspondent account for certain foreign banks, as defined in 31 CFR 1010.610(c).⁴ The EDD must reflect the risk assessment of the account and must include,

³ 31 CFR 1010.605(e).

⁴ The EDD procedures are required for any correspondent account maintained for a foreign bank that operates pursuant to: (i) an offshore banking license; (ii) a banking license issued by a foreign country that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the U.S. representative to the group or organization concurs; or (iii) a banking license issued by a foreign country that has been designated by the Secretary as warranting special measures due to money laundering concerns.

as appropriate: (i) obtaining information relating to the foreign bank's AML program; (ii) monitoring transactions to, from, or through the correspondent account in a manner reasonably designed to detect money laundering and suspicious activity; (iii) obtaining information from the foreign bank about the identity of persons with authority to direct transactions through the correspondent account if it is a payable-through account, as well as information about the sources and beneficial owners of funds or other assets in the payable-through account; (iv) determining whether the foreign bank maintains correspondent accounts for other foreign banks that use the foreign correspondent account established or maintained by the covered financial institution and, if so, taking reasonable steps to obtain information relevant to assess and mitigate money laundering risks, including, as appropriate, by obtaining the identity of the other foreign banks; and (v) obtaining the identity of certain owners of any such foreign bank that is not publicly traded and the nature and extent of the ownership interest.

Under 31 CFR 1010.610(d), covered financial institutions are required to establish special procedures when due diligence or EDD cannot be performed, including when the covered financial should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

b) 31 CFR 1010.620 – Due diligence programs for private banking accounts

Under 31 CFR 1010.620, covered financial institutions are required to establish due diligence policies, procedures, and controls that, at a minimum, are designed to ensure that the financial institutions take reasonable steps to: (i) ascertain the identify of all nominal and beneficial owners of a private banking account;⁵ (ii) ascertain whether

any nominal or beneficial owner is a senior foreign political figure; (iii) ascertain the source(s) of funds deposited into a private banking account and the purpose and expected use of the account; and (iv) review the activity of the account to ensure that it is consistent with the information obtained about the client's source of funds and with the stated purpose and expected use of the account, as needed to guard against money laundering, and to report any known or suspected money laundering or suspicious activity conducted to, from, or through a private banking account.

Under 31 CFR 1010.620(c), in the case of a private banking account for which a senior foreign political figure is a nominal or beneficial owner, covered financial institutions are required to conduct enhanced scrutiny of the account that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.⁶

Under 31 CFR 1010.620(d), covered financial institutions are required to establish special procedures when appropriate due diligence cannot be performed, including when the covered financial institution should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

II. Paperwork Reduction Act of 1995 (PRA)⁷

Title: Due diligence programs for correspondent accounts for foreign financial institutions and private banking accounts (31 CFR 1010.610 and 31 CFR 1010.620).

⁵ Private banking account means an account (or any combination of accounts) maintained at a covered financial institution that: (i) requires a minimum aggregate deposit of funds or other assets of not less than \$1,000,000; (ii) is established on behalf of or for the benefit of one or more non-U.S. persons who are direct or beneficial owners of the account; and (iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a covered financial institution acting as a liaison between the covered financial institution and the direct or beneficial owner of the account. 31 CFR 1010.605(m).

⁶ See 31 CFR 1010.620(c)(2) for the definition of the term "proceeds of foreign corruption."

⁷ Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

OMB Control Number: 1506-0046.

Report Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the due diligence programs for correspondent accounts for foreign financial institutions and for private banking accounts.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Type of Review:

- Renewal without change of a currently approved information collection.
- Propose for review and comment a renewal of the portion of the PRA burden that has been subject to notice and comment in the past (the “traditional annual PRA burden”).
- Propose for review and comment a future expansion of the scope of the PRA burden (the “supplemental annual PRA burden”).

Frequency: As required.

Estimated Number of Respondents: 16,938 financial institutions.⁸

Estimated Recordkeeping Burden:

In Part 1 of this notice, FinCEN describes the breakdown of the estimated number of financial institutions, by type. In Part 2, FinCEN proposes for review and comment a renewal of the estimate of the traditional annual PRA hourly burden, which includes a scope and methodology similar to that used in the past, with the incorporation of a more robust cost estimate. The scope and methodology used in the past was limited to maintaining and updating the due diligence programs as part of the AML programs. In

⁸ Table 1 below sets forth a breakdown of the types of financial institutions covered by this notice.

Part 3, FinCEN proposes for review and comment a methodology to estimate the hourly burden and the cost of a future estimate of a supplemental annual PRA burden that includes the burden and cost of maintaining records related to the regulatory requirements to conduct due diligence and EDD for foreign correspondent accounts, and to conduct due diligence and enhanced scrutiny for private banking accounts. Finally, in Part 4, FinCEN solicits input from the public about: (a) the accuracy of the estimate of the traditional annual PRA burden; (b) the method proposed for the calculation of the future supplemental annual PRA burden; (c) the criteria, metrics, and most appropriate questions FinCEN should consider when researching the information to estimate the future traditional and supplemental annual PRA burden, according to the methodology proposed; and (d) any other comments about the regulations and the current and proposed future hourly burden and cost estimates of these requirements.

Part 1. Breakdown of the financial institutions covered by this notice

The breakdown of financial institutions, by type, covered by this notice is reflected in Table 1 below:

Table 1. Breakdown of financial institutions covered by this notice, by type of financial institution

Type of Financial Institution	Number of Financial Institutions
Banks	10,542 ⁹
Brokers or dealers in securities	3,640 ¹⁰

⁹ According to the Federal Deposit Insurance Corporation (FDIC) there were 5,103 FDIC-insured banks as of March 31, 2020. According to the Federal Reserve Board (FRB), there were 203 other entities supervised by the FRB, as of June 16, 2020, that fall within the definition of bank (20 Edge Act institutions, 15 agreement corporations, and 168 foreign banking organizations). According to the National Credit Union Administration there were 5,236 federally regulated credit unions as of December 31, 2019.

¹⁰ According to the Securities and Exchange Commission (SEC), there were 3,640 brokers or dealers in securities registered with the SEC, as of March 31, 2020.

Type of Financial Institution	Number of Financial Institutions
Futures commission merchants	61 ¹¹
Introducing brokers in commodities	1,104 ¹²
Mutual funds	1,591 ¹³
Total number of financial institutions	16,938

Part 2. Traditional annual PRA burden and cost

Due to the practical challenges of obtaining the total number of correspondent accounts maintained by covered financial institutions for foreign financial institutions subject to regular due diligence requirements, the number of correspondent accounts maintained for foreign banks subject to EDD requirements, and the number of private banking accounts, the scope of the traditional annual PRA burden was limited to the annual burden of (a) maintaining and updating a due diligence programs as part of the AML program, and (b) securing approval of the program by an appropriate level of senior management.

FinCEN continues estimating the annual hourly burden of maintaining and updating the due diligence program for foreign correspondent accounts and private banking accounts at two hours per covered financial institution. This estimate covers the burden of (i) maintaining and updating the due diligence program to take into consideration any regulatory changes and any potential modifications required by

¹¹ According to the Commodities and Futures Trading Commission (CFTC), there were 61 futures commission merchants registered with the CFTC, as of March 31, 2020.

¹² According to the CFTC, there were 1,104 introducing brokers in commodities registered with the CFTC as of March 31, 2020.

¹³ According to the SEC, there were approximately 1,591 mutual funds in 2017, based on forms filed with the SEC. The SEC provided the estimate to FinCEN for the last renewal of OMB control number 1506-0033, 83 FR 46012 (Sept. 11, 2018). FinCEN was unable to obtain a more recent estimate.

changes in the types of foreign correspondent accounts or private banking accounts maintained, or by changes in the operations or organizational structure of the foreign financial institutions for which a covered financial institution maintains accounts, as well as changes to the organizational structure of private banking accounts (one hour), and (ii) presenting the updated due diligence program to the appropriate level of senior management of the financial institution for approval (one hour).

FinCEN's estimate of the traditional annual PRA burden, therefore, is 33,876 hours, as detailed in Table 2 below:

Table 2 – Burden associated with updating and maintaining the due diligence program and obtaining senior management approval of the program

Type of Financial Institution	Number of Financial Institutions	Time Per Financial Institution		Total Burden Hours Per Step		Grand Total Burden Hours
	(See Table 1)	Maintenance	Approval	Maintenance	Approval	
Banks	10,542	1 hour	1 hour	10,542	10,542	21,084
Brokers or dealers in securities	3,640	1 hour	1 hour	3,640	3,640	7,280
Futures commission merchants	61	1 hour	1 hour	61	61	122
Introducing brokers in commodities	1,104	1 hour	1 hour	1,104	1,104	2,208
Mutual funds	1,591	1 hour	1 hour	1,591	1,591	3,182
Total burden hours				16,938	16,938	33,876

To calculate the hourly costs of the burden estimate, FinCEN identified four roles and corresponding staff positions involved in maintaining, updating, and obtaining senior management approval of the due diligence program: (i) board of directors or senior management of the financial institution; (ii) general supervision (providing process

oversight); (iii) direct supervision (reviewing operational-level work and cross-checking all or a sample of the work product against supporting documentation); and (iv) clerical work (engaging in research and administrative review, and recordkeeping).

FinCEN calculated the fully-loaded hourly wage for each of these four roles by using the median wage estimated by the U.S. Bureau of Labor Statistics (BLS),¹⁴ and computing an additional benefits cost as follows:

Table 3. Fully-loaded hourly wage by role and BLS job position for all financial institutions covered by this notice

Role	BLS-Code	BLS-Name	Median Hourly Wage	Benefit Factor	Fully-loaded Hourly Wage
Board of directors/senior management	11-1010	Chief Executive	\$88.68	1.50	\$133.00*
General supervision	11-3031	Financial Manager	\$62.45	1.50	\$93.68
Direct supervision	13-1041	Compliance Officer	\$33.20	1.50	\$49.80
Clerical work (research, review, and recordkeeping)	43-3099	Financial Clerk	\$20.40	1.50	\$30.60

(*) \$133.02 rounded to \$133.00

FinCEN estimates that, *in general and on average*,¹⁵ each role would spend different amounts of time on each portion of the traditional annual PRA burden, as follows:

¹⁴ The U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. The most recent data from the BLS corresponds to May 2019. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at

<https://www.bls.gov/news.release/ecec.nr0.htm>. The ratio between benefits and wages for financial activities is \$15.95 (hourly benefits)/\$32.05 (hourly wages) = 0.50. The benefit factor is 1 plus the benefit/wages ratio, or 1.50. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position.

¹⁵ By "in general," FinCEN means without regard to outliers (e.g., financial institutions with foreign correspondent account relationships with complexities that are uncommonly higher or lower than those of the population at large). By "on average," FinCEN means the mean of the distribution of each subset of the population.

For annually maintaining and updating the due diligence program, the cost of each hour of burden would be (i) one burden hour at \$133.00 (representing the cost of board of directors or senior management review and approval), and (ii) one hour at \$48.00 representing the actual update of the content of the program broken down by each role as shown in Table 4 below:

Table 4. Weighted average hourly cost of maintaining and updating the due diligence program

General Supervision		Direct Supervision		Clerical Work		Weighted Average Hourly Cost
% Time	Hourly Cost	% Time	Hourly Cost	% Time	Hourly Cost	
10%	\$9.37	60%	\$29.88	30%	\$9.18	\$48.00

\$48.43 rounded to \$48.00

The total estimated cost of the traditional annual PRA burden is \$3,065,778, as reflected in Table 5 below:

Table 5. Total cost of traditional annual PRA burden

Steps	Hourly Burden	Hourly Cost	Total Cost
Maintaining and updating the program (divided between the roles listed in Table 4)	16,938 ¹⁶	\$48.00 ¹⁷	\$813,024
Board of directors/senior management approval of the program	16,938 ¹⁸	\$133.00 ¹⁹	\$2,252,754
Total cost			\$3,065,778

Part 3. Supplemental annual PRA burden

In the future, FinCEN intends to add a supplemental annual PRA burden calculation that will include the estimated hourly burden and cost to maintain records to

¹⁶ See Table 2.

¹⁷ See Table 4.

¹⁸ See Table 2.

¹⁹ See Table 3.

document compliance with the due diligence and EDD procedures for foreign correspondent accounts, and due diligence procedures and enhanced scrutiny requirements for private banking accounts.

a) Due diligence procedures for foreign correspondent accounts

As noted in Section I above, for all correspondent accounts established or maintained for foreign financial institutions, covered financial institutions are required to establish due diligence policies, procedures, and controls that include: (i) determining whether each account is subject to EDD; (ii) assessing the money laundering risks presented by each account; and (iii) applying risk-based procedures and controls to each account that are reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.

b) EDD procedures for certain foreign bank accounts

As noted in Section I above, covered financial institutions are required to establish EDD policies, procedures, and controls when establishing, maintaining, administering, or managing a correspondent account for certain foreign banks, as defined in 31 CFR 1010.610(c). The enhanced scrutiny must reflect the risk assessment of the account and must include, as appropriate: (i) obtaining information relating to the AML program of the foreign bank; (ii) monitoring transactions to, from, or through the correspondent account in a manner reasonably designed to detect money laundering and suspicious activity; (iii) obtaining information from the foreign bank about the identity of persons with authority to direct transactions through the correspondent accounts if they

are payable-through accounts, as well as information about the sources and beneficial owners of funds or other assets in the payable-through accounts; (iv) determining whether the foreign bank maintains correspondent accounts for other foreign banks that use the foreign correspondent account established or maintained by the covered financial institution and, if so, taking reasonable steps to obtain information relevant to assess and mitigate money laundering risks, including, as appropriate, by obtaining the identity of the other foreign banks; and (v) obtaining the identity of certain owners of any such foreign bank that is not publicly traded and the nature and extent of the ownership interest.

c) Due diligence procedures for private banking accounts

As noted in Section I above, covered financial institutions are required to establish due diligence policies, procedures, and controls that, at a minimum, are designed to ensure that the financial institutions take reasonable steps to: (i) ascertain the identity of all nominal and beneficial owners of a private banking account; (ii) ascertain whether any nominal or beneficial owner is a senior foreign political figure; (iii) ascertain the source(s) of funds deposited into a private banking account and the purpose and expected use of the account; and (iv) review the activity of the account to ensure that it is consistent with the information obtained about the client's source of funds and with the stated purpose and expected use of the account, as needed to guard against money laundering, and to report any known or suspected money laundering or suspicious activity conducted to, from, or through a private banking account.

d) Enhanced scrutiny for private banking accounts

As noted in Section I above, in the case of a private banking account for which a senior foreign political figure is a nominal or beneficial owner, covered financial institutions are required to conduct enhanced scrutiny that is reasonably designed to detect and report transactions involving the account that may involve the proceeds of foreign corruption.

FinCEN does not have the necessary information to provide a tentative estimate for these supplemental PRA hourly burdens and costs within the current notice. In addition, FinCEN does not have all the necessary information to precisely estimate the traditional annual PRA burden. For that reason, FinCEN is relying on estimates used in prior renewals of this OMB control number and the applicable regulations. FinCEN further recognizes that after receiving public comments as a result of this notice, future traditional annual PRA hourly burden and cost estimates may vary significantly. FinCEN intends to conduct more granular studies of the actions included in the proposed scope of the supplemental annual PRA burden in the near future, to arrive at more precise estimates of net BSA hourly burden and cost.²⁰ The data obtained in these studies also may result in a significant variation of the estimated traditional annual PRA burden.

²⁰ Net hourly burden and cost are the burden and cost a financial institution incurs to comply with requirements that are unique to the BSA, and that do not support any other business purpose or regulatory obligation of the financial institution. Burden for purposes of the PRA does not include the time and financial resources needed to comply with an information collection, if the time and resources are for things a business (or other person) does in the ordinary course of its activities if the agency demonstrates that the reporting activities needed to comply are usual and customary. 5 CFR 1320.3(b)(2). For example, depending on the nature of the correspondent account or private banking account, a financial institution may be collecting and maintaining some of the same information on the foreign financial institution correspondent account holder or the private banking account holder that is required by the regulatory requirements under 31 CFR 1010.610 and 31 CFR 1010.620, respectively, in order to satisfy other obligations including (i) protecting the financial institution from fraud against itself or its customers, (ii) complying with other non-BSA regulatory requirements such as those imposed by the specific Federal functional regulator, or (iii) improving the financial institution's marketing efforts, or the credit analysis of any lending facilities granted to the foreign financial institution.

Estimated Recordkeeping Burden: The average estimated annual PRA burden, measured in hours per respondent, is two hours (one burden hour to annually maintain and update the due diligence program, and one hour to annually obtain senior management approval of the due diligence program).

Estimated Number of Respondents: 16,938, as set out in Table 1.

Estimated Total Annual Responses: 16,938 revised due diligence programs for foreign correspondent accounts and private banking accounts annually; and 16,938 due diligences programs for foreign correspondent accounts and private banking accounts approved by senior management annually, as set out in Table 2.

Estimated Total Annual Recordkeeping Burden: The estimated total annual PRA burden is 33,876 hours, as set out in Table 2.

Estimated Total Annual Recordkeeping Cost: The estimated total annual PRA cost is \$3,065,778, as set out in Table 5.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Part 4 – Request for Comments

a) Specific request for comments on the traditional annual PRA hourly burden and cost.

FinCEN invites comments on any aspect of the traditional annual PRA burden, as set out in Part 2 of this notice. In particular, FinCEN seeks comments on the adequacy of: (i) FinCEN's assumptions underlying its estimate of the burden; (ii) the estimated number of hours required by each portion of the burden; and (iii) the organizational levels of the

financial institution engaged in each portion of the burden, their estimated hourly remuneration, and the estimated proportion of participation by each role. FinCEN encourages commenters to include any publicly available sources for alternative estimates or methodologies.

b) Specific request for comments on the proposed criteria for determining the scope of a supplemental annual PRA hourly burden and cost estimate.

FinCEN invites comments on any aspect of the criteria for a future estimate of the supplemental annual PRA burden, as set out in Part 3 of this notice.

c) Specific request for comments on the appropriate criteria, methodology, and questionnaire required to obtain information to more precisely estimate the supplemental annual PRA hourly burden and cost.

FinCEN invites comments on the most appropriate and comprehensive means to question financial institutions about the annual hourly burden and cost attributable solely to the recordkeeping necessary to comply with the due diligence and EDD requirements for foreign correspondent accounts, and due diligence procedures and enhanced scrutiny requirements for private banking accounts (i.e., the hourly burden and cost of complying with the recordkeeping requirements imposed exclusively by the BSA, which are not used to satisfy contractual obligations, other regulatory requirements, or business purposes of the financial institution).

The supplemental annual PRA hourly burden and cost estimate of the recordkeeping necessary to comply with the due diligence and EDD requirements for foreign correspondent accounts, and due diligence and enhanced scrutiny for private banking accounts must take into consideration only the effort involved in obtaining those

data elements that are used exclusively for complying with requirements under 31 CFR 1010.610 and 31 CFR 1010.620, respectively. Given the complexity in determining what portion of the effort to include in the estimate, FinCEN seeks comments from the public regarding any questions we should consider posing in future notices, in addition to the specific questions for comment outlined directly below. Also, due to the evident difficulty involved in estimating the number of correspondent accounts maintained for foreign financial institutions, the number of correspondent accounts maintained for foreign banks for which EDD is required, the number of private banking accounts, and the number of private banking accounts for which a senior foreign political figure is a nominal or beneficial owner and therefore subject to enhanced scrutiny, FinCEN welcomes any suggestions as to how to derive these estimates by using publicly available financial information.

d) Specific questions for comment associated with the due diligence and EDD

procedures for foreign correspondent accounts:

1) Due diligence procedures

- On average, how many correspondent accounts does your financial institution maintain for foreign financial institutions that require due diligence?
- Does your financial institution maintain foreign correspondent accounts for banks that require EDD?
- On average, how many correspondent accounts does your financial institution maintain for foreign banks that require EDD?

- Does your financial institution have a process to track foreign correspondent accounts for reasons other than to comply with the BSA requirements?
- On average, during the on-boarding process, how long does it take your financial institution to conduct the research necessary to determine if a correspondent account requires due diligence or EDD?
- Does your financial institution have a review and approval process involving senior management regarding the determination to conduct due diligence versus EDD? On average, how long does the review process take and how many approvals are necessary?
- On average, how long does it take your financial institution to conduct the research and document an initial risk assessment of a correspondent account?
- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached in the original risk assessment? On average, how long does the review process take and how many approvals are necessary?
- On average, how frequently does your financial institution conduct periodic reviews of each correspondent account?
- On average, how long does it take your financial institution to conduct and document the periodic review of a correspondent account?
- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached in the

periodic review of a correspondent account? On average, how long does the review process take and how many approvals are necessary

2) EDD procedures

- On average, how long does it take your financial institution to conduct research and document an initial risk assessment of a correspondent account that requires EDD?
- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached in the original risk assessment? On average, how long does the review process take and how many approvals are necessary?
- On average, how long does it take your financial institution to obtain a foreign bank's AML program when a correspondent account requires EDD? Does your financial institution conduct a review of each applicable AML program?
- On average, how often does your financial institution conduct and document review of transaction activity through a correspondent account?
- On average, how long does it take your financial institution to conduct and document review of transaction activity through a correspondent account?
- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached as a result of a transaction activity review on a particular correspondent account? On average, how long does the review process take and how many layers of management review are there?

- On average, how long does it take your financial institution to obtain information from a foreign bank about the identity of persons with authority to direct transactions through the correspondent account if it is a payable-through account, as well as information about the sources and beneficial owners of funds or other assets in the payable-through account?
- On average, how many individuals have the authority to direct transactions through a correspondent account?
- Does your financial institution have a way of identifying if a new person is permitted to conduct transaction activity through a correspondent account, so that your financial institution can obtain the proper information?
- Does your financial institution have a review and approval process involving senior management to evaluate information obtained on persons with authority to direct transactions through a correspondent account?
- Does your financial institution maintain correspondent accounts for foreign banks that permit other foreign banks to use the correspondent account maintained with your financial institution?
- On average, how many correspondent accounts does your financial institution maintain for foreign banks that permit other foreign banks to access the correspondent account?
- Does your financial institution have a way of determining if a foreign bank permits another foreign bank to access the correspondent account maintained with your financial institution?

- On average, how long does it take your financial institution to obtain information from a foreign bank about other foreign banks with access to the correspondent account maintained with your financial institution?
- What additional information does your financial institution obtain to assess and mitigate risk as it relates to other foreign banks permitted to access the correspondent account you maintain with a foreign bank?
- Does your financial institution have a review and approval process involving senior management to evaluate applicable information on other foreign banks with access a correspondent account you maintain with a foreign bank? On average, how long does the review process take and how many approvals are necessary?
- On average, how many non-publicly traded foreign banks does your financial institution maintain correspondent accounts for?
- On average, how long does it take your financial institution to obtain the identity of owners of a non-publicly traded foreign bank and obtain applicable information on the nature and extent of the ownership interest?
- Does your financial institution have a review and approval process involving senior management to evaluate applicable information on a non-publicly traded foreign bank? On average, how long does the review process take and how many approvals are necessary?

e) Specific questions for comment associated with the due diligence and enhanced scrutiny for private banking accounts:

1) Due diligence procedures

- On average, how many private banking accounts does your financial institution maintain that requires due diligence?
- Does your financial institution maintain private banking accounts for which a senior foreign political figure is a nominal or beneficial owner?
- On average, how many private banking accounts does your financial institution maintain for which a senior foreign political figure is a nominal or beneficial owner?
- Does your financial institution have a process to track private banking accounts for reasons other than to comply with the BSA requirements?
- On average, during the on-boarding process, how long does it take your financial institution to conduct the research necessary to determine if a private banking account requires enhanced scrutiny because a senior foreign political figure is a nominal or beneficial owner?
- On average, how long does it take your financial institution to conduct the research and/or obtain documents to ascertain the identity of all nominal and beneficial owners of a private banking account?
- On average, how long does it take your financial institution to research, obtain, and document the source of funds deposited into a private banking account and the purpose and expected use of the account?
- On average, how frequently does your financial institution conduct periodic reviews of each private banking account?
- On average, how long does it take your financial institution to conduct and document the periodic review of a private banking account?

- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached in the periodic review of a private banking account? On average, how long does the review process take and how many approvals are necessary?

2) Enhanced scrutiny for senior foreign political figures

- On average, how long does it take your financial institution to conduct enhanced scrutiny of a private banking account for which a senior foreign political figure is a nominal or beneficial owner?
- On average, how often does your financial institution conduct enhanced scrutiny of such private banking account?
- Does your financial institution have a review and approval process involving senior management to evaluate the conclusions reached as a result of conducting enhanced scrutiny on such a private banking account? On average, how long does the review process take and how many approvals are necessary?

f) General request for comments.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (i) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (v) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Michael Mosier,
Deputy Director,
Financial Crimes Enforcement Network.

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